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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,112	12/11/2001	Harold Aaron Ludtke	SONY 3.0-020	3954
530	7590	10/05/2006	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			HEWITT II, CALVIN L	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/014,112	Applicant(s) LUDTKE ET AL.	
	Examiner Calvin L. Hewitt II	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2006.
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,8-10,12,14,109-114 and 116-123 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1, 2, 8-10, 12, 14, 109-114, and 116-123 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7-24-06</u> . | 6) <input type="checkbox"/> Other: _____ |

Status of Claims

1. Claims 1, 2, 8-10, 12, 14, 109-114, and 116-123 have been examined.

Response to Amendments/Arguments

2. Applicant's arguments with respect to claims 1, 2, 8-10, 12, 14, 109-114, and 116-123 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 2, 8-10, 12, 14, 109-114, and 116-123 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 8, 111, 116 and 123 recite "said credit card being the sole financial information acquired to complete a transaction between said person and said provider". However, according to claims 1, 8, 111, 116 and 123, personal

information and a unique identification trait are also acquired financial information that is used to complete a transaction. Therefore, it is unclear to one of ordinary skill how transactions are completed using Applicant's claimed system (*In re Zletz*, 13 USPQ2d 1320 (Fed. Cir. 1989)).

Claims 2, 9, 10, 12, 14, 109, 110, 112-124, 117-122 are also rejected as each depends from either claims 1, 8, 111, 116, or 123.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 8-10, 12, 14, 109-114, and 116-123 rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnan et al., U.S. Patent No. 6,073,124 in view of Shinn, U.S. Patent No. 6,655,585.

As per claims 1, 2, 8-10, 12, 14, 109-114, and 116-123, Krishnan et al. teach a method and system for effecting a transaction between a person and a provider comprising:

- establishing a communication link over a network between a user communication device and a provider (figures 7 and 10)

- acquiring at a communication device a credit card number and personal information associated with said card (figure 17; column 10, lines 3-8; column/line 20/53- 21/20)
- transmitting the credit card number, the personal information and a verification signal (that authorizes the provider to complete the transaction) to a provider after authenticating the transaction at the user communication device (figure 15; column 10, lines 1-8; column 19, lines 35-67; column 21, lines 15-21)
- storing in a database a file comprising a credit card number and personal information and transmitting said file to the provider (figure 17; column 19, lines 35-67; column 21, lines 15-21)
- a verification signal that comprises a code associated with the user (figure 17; column 21, lines 50-61)

However, Krishnan et al. do not explicitly recite using biometrics in order to authenticate the transaction at the user. Shinn teaches generating a unique identification trait (e.g. fingerprint) (column 3, lines 25-39) using a biometric device (e.g. PC, laptop, PDA, ATM, etc. - column 8, lines 25-35) (figure 5; column 8, lines 25-35) and in association with acquiring a credit card number and personal information (abstract; figure 5; column 8, lines 2-25), comparing at the biometric device the generated unique trait with a previously stored trait

(abstract; figure 8) and if the two traits match within a specified confidence level authorizing the transaction (abstract; column 8, lines 2-25; column 10, lines 1-13). Regarding a visual or audio indication to the user to provide a biometric sample, it is inherent that such an indication would exist otherwise the user would be able to make purchases without biometric verification a scenario that teaches away from the Shinn invention. Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Krishnan et al. and Shinn in order to prevent unauthorized users (such as users who have inappropriately obtained a credit card password belonging to another user- '124, figure 15) from making purchases online purchases ('585, column 7, lines 24-29).

As per claim 5, the Examiner takes Official Notice that online order forms are old and well known.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:
 - Hartman et al. disclose online order forms
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

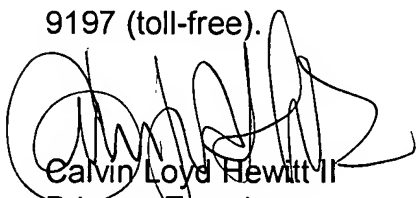
9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone number is (571) 272-6709. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer, can be reached at (571) 272-6779.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public

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Calvin Loyd Hewitt II
Primary Examiner

September 22, 2006